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The Selection and Appointment of United States Bankruptcy Judges

ADMINISTRATIVE OFFICE
OF THE UNITED STATES COURTS

MARCH 1994

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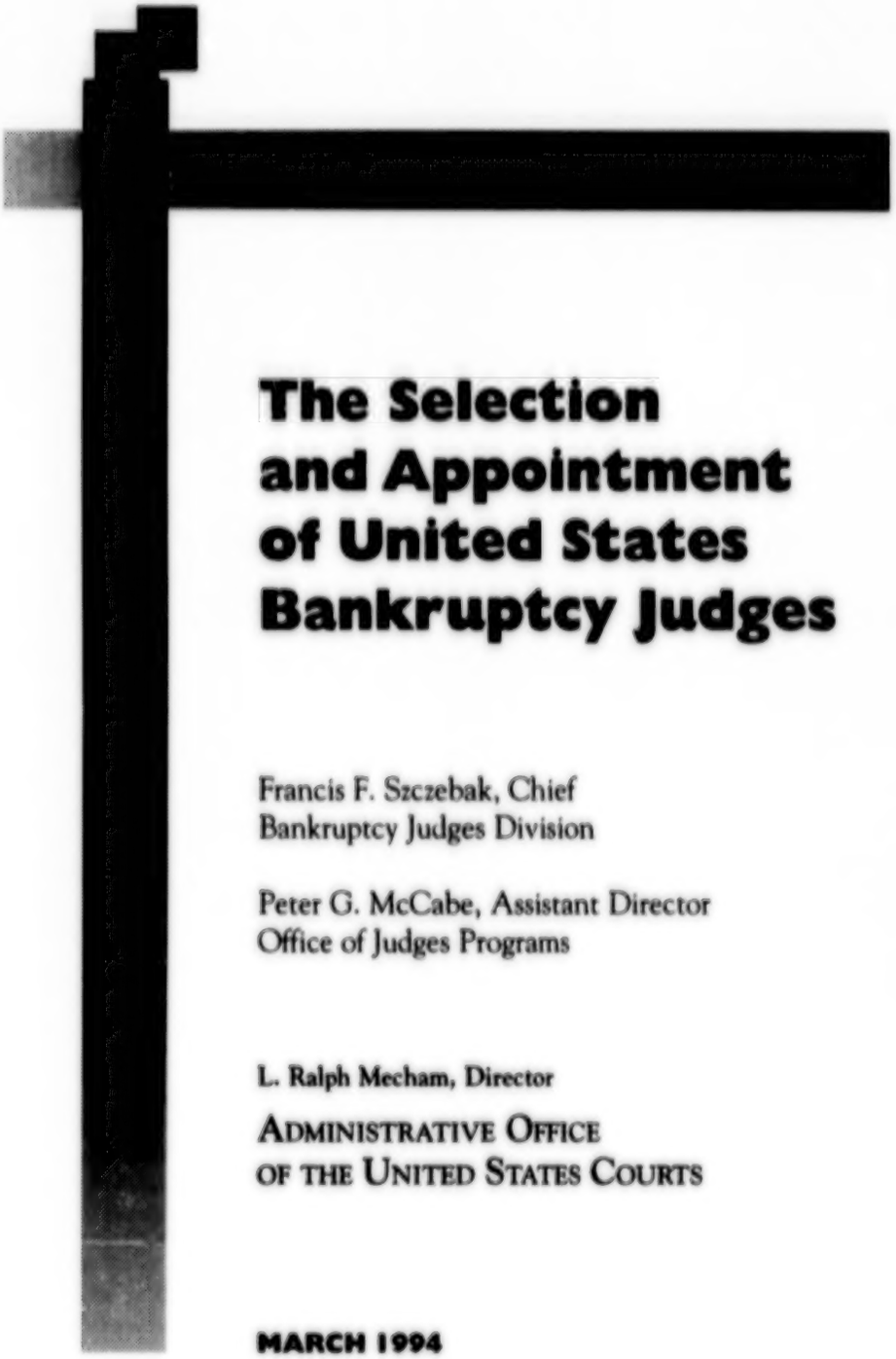

The Selection and Appointment of United States Bankruptcy Judges

Francis F. Szczebak, Chief
Bankruptcy Judges Division

Peter G. McCabe, Assistant Director
Office of Judges Programs

L. Ralph Mecham, Director

ADMINISTRATIVE OFFICE
OF THE UNITED STATES COURTS

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INTRODUCTION

The Bankruptcy Amendments and Federal Judgeship Act of 1984 (Pub. L. No. 98-353) establishes bankruptcy judges as judicial officers of the United States district court established under Article III of the Constitution and provides for their appointment by the United States court of appeals for their respective circuits. The 1984 bankruptcy amendments also mandate that the judicial councils of the circuits shall assist the courts of appeals in the appointment process by evaluating potential nominees and recommending those applicants who are best qualified to serve as bankruptcy judges. The respective roles of the courts of appeals and the judicial councils in this process are described in section 120(a)(1) of the 1984 bankruptcy amendments, which is set out as Appendix A of this pamphlet. To assist the courts of appeals and judicial councils in carrying out this important work, the *Regulations of the Judicial Conference of the United States for the Selection of United States Bankruptcy Judges* suggest that a judicial council may appoint a merit selection panel to examine applicants and report on the qualifications of recommended nominees for the bankruptcy bench.

This pamphlet is a guide for the merit selection panels and the judicial councils as they carry out their responsibilities in the bankruptcy judge selection process. It is also designed to explain the statute and regulations governing the selection and appointment of bankruptcy judges generally and to suggest procedures that panels

and councils may wish to follow in accomplishing their assigned responsibilities.

The pertinent statutes and Judicial Conference regulations governing the selection and appointment of bankruptcy judges will be referred to throughout this pamphlet. They clearly provide the courts of appeals, judicial councils, and merit panels with a degree of freedom in carrying out their respective missions. While the pamphlet will delineate which rules and procedures must be followed, it will also note those areas where the courts, councils, and panels have discretion to act. Panel and council members should also note and give deference to any specific instructions and suggestions from their respective courts of appeals.

THE OFFICE OF THE UNITED STATES BANKRUPTCY JUDGE

A United States bankruptcy judge is a judicial officer of the United States district court who is appointed by the majority of the judges of the United States court of appeals. Bankruptcy judges in regular active service within a given district constitute a unit of the district court known as the bankruptcy court for that district. 28 U.S.C. § 151. Each bankruptcy judge, as a judicial officer of the district court, may, upon delegation from the district court, exercise all authority provided by 28 U.S.C. § 157. The full range of statutory authority is more fully described later in this pamphlet in the discussion of the jurisdiction of United States bankruptcy judges.

The position of bankruptcy judge as it is known today had its antecedents in the referee system established by the Bankruptcy Act of 1898. Under that system, referees were salaried judicial officers appointed by the district court and empowered under then-existing law

and rules to enter final orders in virtually all proceedings over which the court had "summary" jurisdiction but not in proceedings over which the court had "plenary" jurisdiction. In 1978, following ten years of intensive study and often vigorous debate, Congress restructured bankruptcy jurisdiction to eliminate the distinction between "summary" and "plenary" jurisdiction, and it substantially separated administrative from judicial functions, both of which had previously been performed by the bankruptcy referee. The position of bankruptcy judge of the newly created court was authorized to exercise pervasive bankruptcy jurisdiction and to perform all the judicial tasks contemplated as part of the 1978 bankruptcy reform legislation.

In 1982 the Supreme Court found the grant of jurisdiction given to the bankruptcy judges by the reform legislation to be too broad, as it denied litigants the right to have certain disputes resolved by a judicial officer appointed under Article III of the Constitution. In 1984 Congress amended the judicial code to correct this constitutional infirmity by making it clear that jurisdiction over bankruptcy matters is vested in the United States district court, but that the district court may provide that bankruptcy cases or proceedings be referred to the bankruptcy judges for the district, with certain limitations.

Under the present statutory scheme, bankruptcy judges may hear and decide all cases under title 11 (the Bankruptcy Code) and all core proceedings (as defined in 28 U.S.C. § 157(b)(2)) arising under title 11 or arising in or related to a case under title 11, if referred by the district court. They may also hear and decide non-core proceedings upon the consent of all parties to a proceeding. Where consent has not been received in non-core matters, bankruptcy judges may conduct hearings and submit proposed findings of fact and conclusions of law to the district court.

The district court may withdraw a bankruptcy case or proceeding, in whole or in part, from a bankruptcy judge. In any bankruptcy case or proceeding, all personal injury tort and wrongful death claims must be tried before a district judge. The district court has jurisdiction to hear appeals from final judgments, orders, and decrees of the bankruptcy judge except where a judicial council of a circuit has established a bankruptcy appellate panel to hear such appeals.

The number of bankruptcy judges is determined by Congress. The Judicial Conference is required to submit recommendations from time to time regarding the number of bankruptcy judges needed. Bankruptcy judges are appointed to fourteen-year terms and serve on a full-time basis. Bankruptcy judges may not engage in the practice of law or in any other practice, business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of their duties as a judicial officer. Bankruptcy judges are subject to the Code of Judicial Conduct as approved by the Judicial Conference of the United States and may be removed from office during their term for incompetence, misconduct, neglect of duty, or physical or mental disability. They may only be removed by the judicial council of the circuit in which the judge's official duty station is located.

In 1992, legislation was enacted authorizing the creation of ten new "temporary" judgeships. With respect to the potential applicant, there is no difference between a permanent position and a temporary position. The temporary judgeship concept affects only the number of judgeships in a judicial district. Specifically, the concept of a temporary judgeship envisions that after a specified period of time, a vacancy which occurs in a judicial district having a temporary judgeship cannot be filled. In the ten districts receiving a temporary judgeship, the first vacancy occurring five (5) or

more years after the date of enactment of the legislation will not be filled if the vacancy occurs as a result of the death, retirement, resignation, or removal of a judge.

The temporary judgeship provisions are designed to provide districts with the supplemental resources needed to deal with current caseloads while avoiding the continuing expense of permanent judgeships that may become unnecessary as bankruptcy filings decline when the economy recovers from a recession. The legislation protects the 14-year terms of bankruptcy judges and preserves their prospects for reappointment, while at the same time providing for the numbers of judgeships in certain districts to revert eventually to former levels. The public notice for appointment of a temporary judgeship should make clear that these positions are identical to permanent positions from the standpoint of the applicant.

THE JURISDICTION OF UNITED STATES BANKRUPTCY JUDGES

Jurisdiction over bankruptcy matters is vested in the United States district court. Bankruptcy judges exercise the jurisdiction of the district court in bankruptcy cases and proceedings that have been referred to them. As provided by the Bankruptcy Amendments and Federal Judgeship Act of 1984 (Pub. L. No. 98-353), the grant of jurisdiction to the district courts is contained in section 1334 of title 28, United States Code. This section provides:

(a) Except as provided in subsection (b) of this section, the district courts shall have original and exclusive jurisdiction of all cases under title 11.
(b) Notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the

district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.

(c) (1) Nothing in this section prevents a district court in the interest of justice, or in the interest of comity with State courts or respect for State law, from abstaining from hearing a particular proceeding arising under title 11 or arising in or related to a case under title 11.

(2) Upon timely motion of a party in a proceeding based upon a State law claim or State law cause of action, related to a case under title 11 but not arising under title 11 or arising in a case under title 11, with respect to which an action could not have been commenced in a court of the United States absent jurisdiction under this section, the district court shall abstain from hearing such proceeding if an action is commenced, and can be timely adjudicated, in a State forum of appropriate jurisdiction. Any decision to abstain or not to abstain made under this subsection is not reviewable by appeal or otherwise by the court of appeals under section 158(d), 1291, or 1292 of this title or by the Supreme Court of the United States under section 1254 of this title. This subsection shall not be construed to limit the applicability of the stay provided for by section 362 of title 11, United States Code, as such section applies to an action affecting the property of the estate in bankruptcy.

(d) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction of all of the property, wherever located, of the debtor as of the

commencement of such case, and of property of the estate.

The scope of what may be heard and determined by bankruptcy judges respecting those bankruptcy cases and proceedings, and the procedures under which bankruptcy cases and proceedings may be referred to and withdrawn from bankruptcy judges, are set forth in section 157 of title 28, United States Code. These and other relevant statutory provisions affecting bankruptcy judges are set forth in Appendix B of this pamphlet.

THE QUALIFICATION OF BANKRUPTCY JUDGES

Section 120(a)(1) of Pub. L. No. 98-353 provides that whenever a court of appeals is authorized to fill a vacancy that occurs on a bankruptcy court of the United States, it shall appoint a person whose character, experience, ability, and impartiality qualify such person to serve in the federal judiciary. In complying with this selection provision, the statute contemplates that courts of appeals will consider only applicants who are qualified to be bankruptcy judges under regulations prescribed by the Judicial Conference of the United States. These regulations were promulgated at the September 1984 session and amended at the March 1985, September 1988, and March 1989 sessions of the Judicial Conference. The regulations in their entirety are set out as Appendix C. The qualifications to be a bankruptcy judge, as contained in those regulations, are as follows:

1. Bar Membership

To be qualified for appointment as United States bankruptcy judges, nominees must be members in good standing of the bar of the highest court of at least one state, the District of Columbia, or the

Commonwealth of Puerto Rico, and members in good standing of every other bar of which they are a member.

2. Experience as an Attorney

To be qualified for appointment, unless the judicial council of the circuit determines that special conditions exist, nominees must have engaged in the active practice of law for a period of at least five years. The judicial council may consider as substitute experience for the active practice of law the following, including any combination thereof:

(a) Judge of a state court of record or other state judicial officer.
(b) United States magistrate, referee in bankruptcy, bankruptcy judge, or other federal judicial officer.
(c) Attorney for federal or state agencies.
(d) Law clerk to any judge or judicial officer (limited to two years).
(e) Other legal experience which is suitable as a substitute in the opinion of the majority of the judicial council.

3. Personal Attributes

To be qualified for appointment the nominee must:

(a) be competent to perform the duties of the office of bankruptcy judge;
(b) possess, and have a reputation for, integrity and good character;
(c) possess, and have demonstrated, a commitment to equal justice under law;
(d) be of sound mental and physical health;
(e) possess, and have demonstrated, outstanding legal ability and competence; and

(f) indicate by demeanor, character, and personality that the nominee would exhibit judicial temperament if appointed.

4. Relationship to Judges

At the time of the initial appointment, nominees must not be related by blood or marriage to a judge of the appointing court of appeals, or to a judge of the judicial council of that circuit, or to a judge of the district court to be served, within the degrees specified in 28 U.S.C. § 458.

5. Additional Qualifications

The judicial council may establish additional qualification standards appropriate for a particular position, taking into account the specific responsibilities for that office.

APPOINTMENT OF THE MERIT SELECTION PANEL

In prescribing regulations implementing the statutory provisions governing the selection of bankruptcy judges, the Judicial Conference recognized that the judicial councils of the circuits may need the assistance of merit selection panels in screening and reviewing the qualifications of applicants for the bankruptcy bench. The regulations provide that the councils may by majority vote appoint (or authorize the chief judge of the circuit to appoint) a chairman and members of a merit selection panel. The panel may have no less than three members, including the chairman. It is recommended that panels be composed of an odd number of persons in order to avoid problems caused by tie votes. The panel's chairman may perform such duties as the judicial

council may assign. If the judicial council decides not to appoint a panel pursuant to the Conference regulations, the council or a subcommittee of the members of the council may perform the duties of the panel set forth in the regulations.

The Judicial Conference regulations do not prescribe composition of membership or qualifications for service on the merit selection panels, except that panel members must be residents of the circuit within which the appointment is to be made.

Panelists receive no compensation for their services, but may be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by law. Matters related to the operation of the panel, including reimbursement, should be coordinated through the circuit executive's office. While neither the statute nor the regulations make provision for clerical help for the panels, it is expected that, to the extent reasonably possible, the circuit executive will ensure that both facilities and personnel are available to assist the panels in their work. No person may be considered as a nominee while serving or having agreed to serve as a member of the panel, or for a period of one year thereafter.

PUBLIC NOTICE AND THE APPLICATION FOR BANKRUPTCY JUDGE POSITIONS

The statute and Judicial Conference regulations governing the selection process require that public notice of a bankruptcy judge vacancy be published in a general local newspaper or similar publication and in a bar journal, newsletter, or local legal periodical, if available. While the regulations do not prescribe the minimum amount of time such public notice should appear, it is

recommended that a full notice, such as the one set out in Appendix D, appear in a newspaper and legal periodical for a single issue. The Administrative Office will cover the cost of publishing the notice. (A letter, requesting advertising funds for a judicial vacancy, should be submitted to the Procurement and Property Branch of the Administrative Office to cover publication costs). The full notice should describe the duties of the bankruptcy judge, the authorized salary, the pertinent qualification standards, and the procedures for submission of applications, including the name and address of the person to whom the application must be submitted. It should note that the regulations require the application to be submitted by the applicant personally.

If the court of appeals instead chooses to publish an abbreviated announcement, which only notes the nature of the position and the procedures for submission of applications, including the name and address of the person to whom applications should be submitted, it should appear in newspapers and periodicals for a reasonable amount of time at the discretion of the court. The announcement should always refer potential applicants to a specific contact or source for additional information. Normally, this contact will be the circuit executive or staff within the office of the circuit executive. Circuit executives may wish to assemble answers to the most frequently asked questions in preparation for inquiries by applicants. The Bankruptcy Judges Division is available to assist in responding to inquiries by potential nominees. A sample abbreviated public notice is provided as Appendix E.

In order to attract the greatest number of applicants, the public notice should be disseminated as widely as practicable so that all qualified members of the bar are apprised of the opportunity to apply for the position. While it is permissible for most court officials to under-

take active recruitment of qualified individuals, members of the merit selection panels should refrain from active recruitment to avoid the appearance of favoritism. An affirmative effort should be made by the court of appeals to identify qualified women, as well as minority individuals such as African-Americans and Hispanics, to ensure that these persons are informed of the vacancy and given an opportunity to apply. The notice should also be filed and posted in the office of the clerk of the bankruptcy and district courts where the bankruptcy judge vacancy exists.

Since within 90 days of its creation, a merit panel must report the results of its activities to the judicial council, unless otherwise directed, the court of appeals should take the necessary preliminary steps to issue the required public notice and ensure its prompt insertion in requisite newspapers and publications. In order to promote uniformity and efficiency, the court should prepare and reproduce in sufficient numbers the forms to be completed by applicants. Thereafter, applicants should be required in the instructions accompanying the forms to submit sufficient copies to meet the needs of the panel and the judicial council. In light of the 90-day rule, it may be advisable to provide a specific submission deadline, such as 30 days after publication, in order to permit the panel to complete its work in a timely manner. A sample application is provided as Appendix F.

On occasion, a new vacancy will occur shortly after the merit selection panel has concluded its deliberations and submitted its report for a prior vacancy. In these circumstances, most of the applicants for the prior vacancy will also want to be considered for the new vacancy. Some circuits have established a policy providing that in the event a new vacancy occurs within 90 days after submission of a panel report for a prior vacancy in the same district and geographic area, the panel may include in the list of persons found best

qualified, nominees for the prior vacancy, together with other new applicants also deemed qualified. Such a policy would appear to save the merit selection panel a great deal of work.

MEETING OF THE PANEL

At its initial meeting, the panel should discuss and establish the procedures and rules to be followed during its deliberations. Although the regulations of the Judicial Conference provide the panel with a great degree of discretion in the actual review and selection of nominees, panel members must nevertheless abide by specific rules, for example, that all decisions must be by majority vote.

If the judicial council or court of appeals has not already done so, the panel should establish procedures regarding open voting vs. secret ballots, attendance requirements, and quorum rules. Depending on the actual or anticipated number of applications submitted, the panel may wish to consider whether to delegate the initial task of screening applicants to the chairman or other individual members of the panel as appropriate.

If public notice of the vacancy has not been distributed, the panel should bring this fact to the attention of the court of appeals. As the Conference regulations require the panel to submit the report on the results of its activities within 90 days unless otherwise directed, a specific deadline for the receipt of applications—such as 30 days after publication—is advisable.

Following the initial screening of candidates on the basis of applications submitted, the panel, in its discretion, may choose to narrow the field and conduct personal interviews of some or all applicants. These interviews may be especially helpful in situations where members of the panel have no personal knowledge of the applicants or their legal

experience. Care should be taken, however, to assure fairness in the interviewing process. For example, the panel members should determine beforehand what types of questions will be asked and should generally agree that the same general questions and areas of inquiry are to be asked of each interviewee.

CONFIDENTIALITY REQUIREMENTS

In order to encourage the greatest number of applicants and to protect their privacy, the Judicial Conference regulations impose a requirement of confidentiality upon the panel. Neither the names of the applicants nor the identity of those individuals recommended by the panel to the judicial council may be disclosed other than as a necessary part of the panel's report to the judicial council.

Panel members should keep confidential all information, written or oral, obtained in the course of performing their duties. The panel may wish to ensure that the public notice and application form contain a confidentiality pledge. The panel's deliberations, moreover, should remain confidential.

During the course of the panel's work, it will likely become necessary to verify or supplement written information provided by the candidate on the application form through questioning of the applicant's references, as well as present or past employers, adversaries, and colleagues, or by seeking the views of others who may have specific knowledge of the applicant's abilities. It is suggested in these instances that the panel avoid potential embarrassment to the applicant and the possible breach of the pledge of confidentiality by seeking the candidate's prior approval before contacting any outside source or reference. One way to accomplish

this is to inform applicants that individuals whom they specify as references, as well as employers and co-workers, may be contacted by the panel unless the applicant notifies the circuit executive that such contacts should not be made.

It is suggested that the initial screening process be completed before inquiries are undertaken respecting applicants remaining under consideration for appointment. In limiting such inquiries, the panel protects the privacy interests of the applicants.

EVALUATING THE APPLICANTS

The Judicial Conference regulations do not prescribe the manner in which merit panels should evaluate and rank candidates. These procedures are left generally to the discretion of the individual panels and judicial councils. The following suggestions are offered as a guide to the panels in carrying out their mission.

1. In General

Failure on the part of the applicant to meet any one of the statutory or regulatory requirements should normally result in automatic rejection of that applicant's candidacy. A judicial council may establish additional qualification standards appropriate for a particular position, taking into account the specific responsibilities anticipated for that position. Panel members should bear in mind that bankruptcy judges exercise, for the most part, the full jurisdiction over bankruptcy matters granted to a United States district judge. Thus, the bankruptcy judge nominee should possess the same types of personal and professional qualities expected of district judges.

2. Scholarship

Panel members should consider the applicant's academic record and accomplishments in law school and college. Panelists may wish to give special attention to the applicant's class standing, the quality of the schools attended, membership on the law review, and membership in other academically related associations.

3. Practice of Law

Consideration should be given to the period and character of legal practice in which the applicant has been engaged. The applicant should have demonstrated professional competence, including the ability to deal with complicated legal problems and an aptitude for legal scholarship and writing. The individual should be well regarded professionally by other lawyers. While the panel should not confine its consideration to persons with any one type of legal work or segment of practice, it must decide on the requisite weight to be given to the applicant's substantive knowledge and experience, including litigation experience, in the fields of bankruptcy, insolvency, and commercial law. The panel should also consider whether the applicant has been involved in any public service activities, including *pro bono* work.

4. Knowledge of the Court System

Because procedures under the Federal Rules of Civil Procedure, the Federal Rules of Evidence, and the Federal Rules of Bankruptcy Procedure frequently differ from those of state and local court systems, the panel may wish to consider the applicant's familiarity with the federal courts, and the bankruptcy court in particular.

5. Personal Attributes

In addition to the above criteria, which are comparatively objective, the Judicial Conference regulations require that the nominee:

1) be competent to perform the duties of the office;
2) be of good moral character;
3) be emotionally stable and mature;
4) be committed to equal justice under the law;
5) be of sound mental and physical health;
6) possess, and have demonstrated, outstanding legal ability and competence; and
7) indicate by demeanor, character, and personality that the nominee would exhibit the judicial temperament required if appointed.

These characteristics, by their very nature, are subjective and not always quantifiable, but may ultimately stand as among the most important qualities necessary for a successful career as a bankruptcy judge.

6. Equal Employment Opportunity

Congress has noted that compared to the population as a whole, women, and certain minority groups such as African-Americans and Hispanics are underrepresented in the federal judiciary. The panel members should give due consideration to all qualified individuals for appointment, especially from these underrepresented groups.

7. Additional Qualification Standards

The judicial council is authorized by regulation to establish additional qualification standards appropriate for a particular position, taking into account the specific responsibilities for that office. For example, an individual appointed as a judge in a one-judge court will have certain

responsibilities that may require a great deal of administrative and managerial skill. The merit selection panel or subcommittee of the judicial council may wish to develop other requirements or attributes that it considers desirable. Other personal attributes that may be desirable for candidates for appointment as a bankruptcy judge include the following:

1) General intellectual ability;
2) Diligence and a proven willingness to work hard;
3) An ability to discern facts and weigh conflicting evidence;
4) Decisiveness (i.e., an ability to make prompt, correct determinations of legal issues);
5) A proven capacity to speak and write clearly;
6) Integrity and the absence of outside political or other influence; and
7) A commitment to public service.

8. Weighting the Qualification Factors

It may not be possible for panel members or the panel as a whole to assign formal mathematical values to the various selection criteria. Nonetheless, some degree of uniformity is essential in the selection process. To aid the panel in reaching an acceptable level of uniformity, a sample checklist that can be applied to all applicants is provided as Appendix G. The panel may wish to consider assigning a weight or point value to each factor, signifying its degree of importance.

REPORT AND RECOMMENDATIONS TO THE JUDICIAL COUNCIL AND THE COURT OF APPEALS

After all written information has been submitted, interviews have been completed, and all follow-up information has been gathered, the panel should collec-

tively determine which individuals among the applicants meet all the standards and appear qualified for appointment as a United States bankruptcy judge. The members may consider it appropriate at this time to conduct a full and candid discussion of the qualifications of the various candidates. Each panel member should be free to contribute personal views as to the qualifications of each applicant.

Within 90 days of its creation, unless otherwise directed, the panel must submit its report to the judicial council, in which it must specify the five to ten persons the panel has determined as best qualified. The council may accept a list containing fewer than five names for good cause shown by the panel in its report. All written information received by or prepared by the panel concerning the recommended nominees must accompany the report. Thereafter, the chairman should take whatever steps are necessary to ensure the confidentiality of the transmission of the report to the judicial council of the circuit.

In making its report, it is recommended that the panel specify the total number of individuals who applied for the vacant position and the reasons it supports the candidacy of the recommended nominees. The panel may wish to note which characteristics or qualities it considered important in its deliberations. It may also wish to note how these characteristics or qualities were manifested in the nominees selected, if not otherwise apparent in the written materials submitted by the applicant. The report must also address any specific additional qualification standards imposed by the judicial council. No individual should be included in the list of recommended nominees unless a majority of the panel deem that person fully qualified to serve as a United States bankruptcy judge.

The Judicial Conference regulations are silent on whether the recommended nominees should be ranked.

The panel may simply choose to list the recommended nominees in alphabetical order without preference, or rank the nominees, especially where the quality varies substantially among the individuals nominated. The panel chairman may wish to explore this issue with the judicial council before submitting the panel's report. Additionally, should the panel have too few or no qualified applicants, the panel should immediately consult with the judicial council so that another notice of vacancy can be published in order to attract qualified candidates before the expiration of the 90-day deadline.

After receiving and reviewing the report of the merit selection panel, the judicial council should review the qualifications of the recommended nominees, consistent with procedures it has established for this purpose. At its discretion, the judicial council may accept the findings contained in the panel report or it may conduct an additional inquiry into the qualifications of the individuals recommended. The council may also wish to conduct its own interviews with recommended nominees.

Upon completion of its review, the judicial council shall submit a list of at least three nominees to the court of appeals, unless otherwise directed by the court. The council shall select the nominees from the list provided by the panel. However, the judicial council, by majority vote, may reject the first list submitted by the panel. If such a list is rejected, the panel shall submit a second list from which the judicial council shall then select its nominees. If the judicial council has chosen not to form a panel to assist it in this selection process, then the council shall select nominees from among the applicants for the position.

The circuit will decide whether or not to disclose the names of the three (or more) finalists whose names are submitted by the judicial council to the court of appeals.

Some circuits announce the names of the finalists and invite comment on the merits of each individual prior to making a final selection.

SELECTION BY THE COURT OF APPEALS

Upon receiving the list of nominees from the judicial council, the court of appeals may wish to conduct a final round of personal interviews. Thereafter, the court shall select the appointee by majority vote. Whenever a majority of the judges of any court of appeals cannot agree upon the appointment of a bankruptcy judge, the chief judge of the court of appeals shall make the appointment.

Once the court has made its selection, subject to background investigations by the Federal Bureau of Investigation and the Internal Revenue Service, it should so notify and obtain the acceptance of the nominee. It should then inform the members of the panel of its choice and may notify the other applicants that the court has made a tentative selection and thank them for their interest in the position. The circuit must decide whether to disclose the name of the appointee prior to completion of the FBI and IRS investigations. Although there is no prohibition on announcing the name of the appointee prior to completion of the FBI and IRS reports, in a few rare cases such an announcement proved embarrassing when the circuit subsequently revoked its selection following examination of the background reports on the nominee.

Until recently, there was no requirement for nominees for bankruptcy judgeships to disclose comprehensive information regarding their financial affairs. Bankruptcy judges were merely required to complete a financial

disclosure statement after they took office. At its March 1989 meeting, however, the Judicial Conference approved amendments to its regulations for the appointment of bankruptcy judges that permit a court of appeals to require the finalists for bankruptcy judgeships to disclose comprehensive information regarding their financial affairs prior to preparation of background reports by the FBI and the IRS. Requiring that nominees complete a preliminary disclosure statement after being selected for appointment ensures that the court of appeals has comprehensive information on the nominees' financial interests prior to actual appointment. A copy of the preliminary disclosure statement to be submitted by nominees for bankruptcy judgeships is provided as Appendix H.

The name, address, and telephone number of the individual selected, along with all necessary disclosure forms, should be submitted to the Director of the Administrative Office through the Bankruptcy Judges Division in accordance with established procedures. The Bankruptcy Judges Division and the Assistant Director for Office of Judges Programs will immediately request the necessary background reports from the FBI and the IRS as required by the Judicial Conference regulations. However, if the nominee has been the subject of such reports prior to selection to the present position, the requirement for further background reports may be waived upon the request of the court of appeals. If in the judgment of the court of appeals the IRS report has not been completed in a timely manner, it may waive the report, provided it has taken steps to assure itself that the nominee has filed returns as required.

Full field FBI investigations normally take 8 to 12 weeks to complete. The nominee will have to complete the requisite forms to initiate the FBI and IRS reports. It is important that these forms are prepared completely and accurately and returned promptly to the Bankruptcy

Judges Division. A fingerprint card must also be submitted. The nominee may wish to request the assistance of the local United States Marshal's office or other law enforcement agency to complete the fingerprint card.

If the court of appeals is satisfied with the qualifications of the nominee after reviewing the background investigation reports and financial disclosure statement, it should issue an order of appointment and the necessary forms required by the Administrative Office of the United States Courts.

Prior to entering on duty as a bankruptcy judge the appointee is required by 28 U.S.C. § 153(c) to take the judicial oath or affirmation prescribed by 28 U.S.C. § 453 and must also take the constitutional oath prescribed by 5 U.S.C. § 3331. It is entirely appropriate for the court of appeals, district court, or bankruptcy court to arrange a formal swearing-in ceremony for the new bankruptcy judge. Such a ceremony may prove an effective mechanism for acquainting the bar and the public with the new bankruptcy judge.

DISPOSITION OF RECORDS

In order to maintain the confidentiality of the identities of the various applicants, care should be exercised by the panel and the judicial council in handling and disposing of the application forms and all other written materials collected during their respective deliberations. It is suggested that all material other than that which pertains to the individuals who are recommended as nominees—which material must be forwarded along with the panel's report—be retained by the chairman until the actual appointment of the bankruptcy judge. Retention of these materials is suggested because the court of appeals may decline to make a selection from among the nominees recommended or may subsequently

revoke its selection following examination of the background reports on the nominee. In such event, a reconvening of the panel may be required and the information previously assembled on the remaining applicants would be needed.

Immediately following the appointment of a bankruptcy judge, the chairman of the merit panel or the presiding officer of the judicial council special committee may wish to return all materials to the applicants. The report of the panel, along with material related to the recommended nominees, should be retained by the circuit executive as confidential records.

APPENDIX A

Sec. 120.(a)(1) Whenever a court of appeals is authorized to fill a vacancy that occurs on a bankruptcy court of the United States, such court of appeals shall appoint to fill that vacancy a person whose character, experience, ability, and impartiality qualify such person to serve in the Federal judiciary.

(2)It is the sense of the Congress that the courts of appeals should consider for appointment under section 152 of title 28, United States Code, to the first vacancy which arises after the date of the enactment of this Act in the office of each bankruptcy judge, the bankruptcy judge who holds such office immediately before such vacancy arises, if such bankruptcy judge requests to be considered for such appointment.

(b) The judicial council of the circuit involved shall assist the court of appeals by evaluating potential nominees and by recommending to such court for consideration for appointment to each vacancy on the bankruptcy court persons who are qualified to be bankruptcy judges under regulations prescribed by the Judicial Conference of the United States. In the case of the first vacancy which arises after the date of the enactment of this Act in the office of each bankruptcy judge, such potential nominees shall include the bankruptcy judge who holds such office immediately before such vacancy arises, if such bankruptcy judge requests to be considered for such appointment and the judicial council determines that such judge is qualified under subsection (c) of this section to continue to serve. Such potential nominees shall receive consideration equal to that given all other potential nominees for such position.

(c) Before transmitting to the court of appeals the names of the persons the judicial council for the circuit deems best qualified to fill any existing vacancy, the judicial council shall have determined that—

(1)public notice of such vacancy has been given and an effort has been made, in the case of each such vacancy, to identify qualified candidates, without regard to race, color, sex, religion, or national origin,

(2)such persons are members in good standing of at least one State bar, or the District of Columbia bar, and members in good standing of every other bar of which they are members,

(3)such persons possess, and have a reputation for, integrity and good character,

(4)such persons are of sound physical and mental health,

(5)such persons possess and have demonstrated commitment to equal justice under law,

(6)such persons possess and have demonstrated outstanding legal ability and competence, as evidenced by substantial legal experience, ability to deal with complex legal problems, aptitude for legal scholarship and writing, and familiarity with courts and court processes, and

(7)such persons demeanor, character, and personality indicate that they would exhibit judicial temperament if appointed to the position of United States bankruptcy judge.

APPENDIX B

§ 151. Designation of bankruptcy courts

In each judicial district, the bankruptcy judges in regular active service shall constitute a unit of the district court to be known as the bankruptcy court for that district. Each bankruptcy judge, as a judicial officer of the district court, may exercise the authority conferred under this chapter with respect to any action, suit, or proceeding and may preside alone and hold a regular or special session of the court, except as otherwise provided by law or by rule or order of the district court.

§ 152. Appointment of bankruptcy judges

(a)(1) The United States court of appeals for the circuit shall appoint bankruptcy judges for the judicial districts established in paragraph (2) in such numbers as are established in such paragraph. Such appointments shall be made after considering the recommendations of the Judicial Conference submitted pursuant to subsection (b). However, upon the expiration of the term, a bankruptcy judgeship may, with the approval of the judicial council of the circuit, continue to perform the duties of the office until the earlier of the date which is 180 days after the expiration of the term or the date of the appointment of a successor. Each bankruptcy judge shall be appointed for a term of fourteen years, subject to the provisions of subsection (e). Bankruptcy judges shall serve as judicial officers of the United States district court established under Article III of the Constitution.

(2) The bankruptcy judges appointed pursuant to this section shall be appointed for the several judicial districts as follows:

Districts	Judges*
Alabama:	
Northern	6
Middle	2
Southern	2
Alaska	2
Arizona	7
Arkansas:	
Eastern and Western	3
California:	
Northern	9
Eastern	6

Central 21
Southern 4
Colorado 6
Connecticut 3
Delaware 2
District of Columbia 1
Florida:
Northern 1
Middle 8
Southern 5
Georgia:
Northern 8
Middle 2
Southern 2
Middle and Southern 1
Hawaii 1
Idaho 2
Illinois:
Northern 10
Central 3
Southern 2
Indiana:
Northern 3
Southern 4
Iowa:
Northern 2
Southern 2
Kansas 4
Kentucky:
Eastern 2
Western 3
Louisiana:
Eastern 2
Middle 1
Western 3
Maine 2
Maryland 4
Massachusetts 5
Michigan:
Eastern 4
Western 3
Minnesota 4
Mississippi:
Northern 1
Southern 2
Missouri:
Eastern 3
Western 3
Montana 1

Nebraska 2
Nevada 3
New Hampshire 2
New Jersey 8
New Mexico 2
New York:
- Northern 2
- Southern 9
- Eastern 6
- Western 3

North Carolina:
- Eastern 2
- Middle 3
- Western 2

North Dakota 1
Ohio:
- Northern 8
- Southern 7

Oklahoma:
- Northern 2
- Eastern 1
- Western 3

Oregon 5
Pennsylvania:
- Eastern 5
- Middle 2
- Western 4

Puerto Rico 3
Rhode Island 1
South Carolina 3
South Dakota 2
Tennessee:
- Eastern 4
- Middle 3
- Western 4

Texas:
- Northern 6
- Eastern 2
- Southern 6
- Western 5

Utah 3
Vermont 1
Virginia:
- Eastern 5
- Western 3

Washington:
- Eastern 2
- Western 5

West Virginia:
- Northern 1
- Southern 1

Wisconsin:
- Eastern 4
- Western 2

Wyoming 1

* *Includes the ten "temporary" judgeships authorized in 1992.*

(3) Whenever a majority of the judges of any court of appeals cannot agree upon the appointment of a bankruptcy judge, the chief judge of such court shall make such appointment.

(4) The judges of the district courts for the territories shall serve as the bankruptcy judges for such courts. The United States court of appeals for the circuit within which such a territorial district court is located may appoint bankruptcy judges under this chapter for such district if authorized to do so by the Congress of the United States under this section.

(b)(1) The Judicial Conference of the United States shall, from time to time, and after considering the recommendations submitted by the Director of the Administrative Office of the United States Courts after such Director has consulted with the judicial council of the circuit involved, determine the official duty stations of bankruptcy judges and places of holding court.

(2) The Judicial Conference shall, from time to time, submit recommendations to the Congress regarding the number of bankruptcy judges needed and the districts in which such judges are needed.

(3) Not later than December 31, 1994, and not later than the end of each 2-year period thereafter, the Judicial Conference of the United States shall conduct a comprehensive review of all judicial districts to assess the continuing need for the bankruptcy judges authorized by this section, and shall report to the Congress its findings and any recommendations for the elimination of any authorized position which can be eliminated when a vacancy exists by reason of resignation, retirement, removal, or death.

(c) Each bankruptcy judge may hold court at such places within the judicial district, in addition to the official duty station of such judge, as the business of the court may require.

(d) With the approval of the Judicial Conference and of each of the judicial councils involved, a bankruptcy judge may be designated to serve in any district adjacent to or near the district for which such bankruptcy judge was appointed.

(e) A bankruptcy judge may be removed during the term for which such bankruptcy judge is appointed, only for incompetence, misconduct, neglect of duty, or physical or

mental disability and only by the judicial council of the circuit in which the judge's official duty station is located. Removal may not occur unless a majority of all of the judges of such council concur in the order of removal. Before any order of removal may be entered, a full specification of charges shall be furnished to such bankruptcy judge who shall be accorded an opportunity to be heard on such charges.

§ 153. Salaries; character of service

(a) Each bankruptcy judge shall serve on a full-time basis and shall receive as full compensation for his services, a salary at an annual rate that is equal to 92 percent of the salary of a judge of the district court of the United States as determined pursuant to section 135, to be paid at such times as the Judicial Conference of the United States determines.

(b) A bankruptcy judge may not engage in the practice of law and may not engage in any other practice, business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of such bankruptcy judge's duties as a judicial officer. The Conference may promulgate appropriate rules and regulations to implement this subsection.

(c) Each individual appointed under this chapter shall take the oath or affirmation prescribed by section 453 of this title before performing the duties of the office of bankruptcy judge.

(d) A bankruptcy judge appointed under this chapter shall be exempt from the provisions of subchapter I of chapter 63 of title 5.

§ 154. Division of businesses; chief judge

(a) Each bankruptcy court for a district having more than one bankruptcy judge shall by majority vote promulgate rules for the division of business among the bankruptcy judges to the extent that the division of business is not otherwise provided for by the rules of the district court.

(b) In each district court having more than one bankruptcy judge the district court shall designate one judge to serve as chief judge of such bankruptcy court. Whenever a majority of the judges of such district court cannot agree upon the designation as chief judge, the chief judge of such district court shall make such designation. The chief judge of the bankruptcy court shall ensure that the rules of the bankruptcy court and of the district court are observed and that the business of the bankruptcy court is handled effectively and expeditiously.

§ 155. Temporary transfer of bankruptcy judges

(a) A bankruptcy judge may be transferred to serve temporarily as a bankruptcy judge in any judicial district other than the judicial district for which such bankruptcy judge was appointed upon the approval of the judicial council of each of the circuits involved.

(b) A bankruptcy judge who has retired may, upon consent, be recalled to serve as a bankruptcy judge in any judicial district by the judicial council of the circuit within which such district is located. Upon recall, a bankruptcy judge may receive a salary for such service

in accordance with regulations promulgated by the Judicial Conference of the United States, subject to the restrictions on the payment of an annuity in section 377 of this title or in subchapter III of chapter 83, and chapter 84, of title 5 which are applicable to such judge.

§ 156. Staff; expenses

(a) Each bankruptcy judge may appoint a secretary, a law clerk, and such additional assistants as the Director of the Administrative Office of the United States Courts determines to be necessary. A law clerk appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, unless specifically included by the appointing judge or by local rule of the court.

(b) Upon certification to the judicial council of the circuit involved and to the Director of the Administrative Office of the United States Courts that the number of cases and proceedings pending within the jurisdiction under section 1334 of this title within a judicial district so warrants, the bankruptcy judges for such district may appoint an individual to serve as clerk of such bankruptcy court. The clerk may appoint, with the approval of such bankruptcy judges, and in such number as may be approved by the Director, necessary deputies, and may remove such deputies with the approval of such bankruptcy judges.

(c) Any court may utilize facilities or services, either on or off the court's premises, which pertain to the provision of notices, dockets, calendars, and other administrative information to parties in cases filed under the provisions of title 11, United States Code, where the costs of such facilities or services are paid for out of the assets of the estate and are not charged to the United States. The utilization of such facilities or services shall be subject to such conditions and limitations as the pertinent circuit council may prescribe.

(d) No office of the bankruptcy clerk of court may be consolidated with the district clerk of court office without the prior approval of the Judicial Conference and the Congress.

(e) In a judicial district where a bankruptcy clerk has been appointed pursuant to subsection (b), the bankruptcy clerk shall be the official custodian of the records and dockets of the bankruptcy court.

(f) For purposes of financial accountability in a district where a bankruptcy clerk has been certified, such clerk shall be accountable for and pay into the Treasury all fees, costs, and other monies collected by such clerk except uncollected fees not required by an Act of Congress to be prepaid. Such clerk shall make returns thereof to the Director of the Administrative Office of the United States Courts and the Director of the Executive Office For United States Trustees, under regulations prescribed by such Directors.

§ 157. Procedures

(a) Each district court may provide that any or all cases under title 11 and any or all proceedings arising under title 11 or arising in or related to a case under title 11 shall be referred to the bankruptcy judges for the district.

(b)(1) Bankruptcy judges may hear and determine all cases under title 11 and all core proceedings arising under title 11, or arising in a case under title 11, referred under subsection (a) of this section, and may enter appropriate orders and judgments, subject to review under section 158 of this title.

(2) Core proceedings include, but are not limited to—

(A) matters concerning the administration of the estate;

(B) allowance or disallowance of claims against the estate or exemptions from property of the estate, and estimation of claims or interests for the purposes of confirming a plan under chapter 11, 12, or 13 of title 11 but not the liquidation or estimation of contingent or unliquidated personal injury tort or wrongful death claims against the estate for purposes of distribution in a case under title 11;

(C) counterclaims by the estate against persons filing claims against the estate;

(D) orders in respect to obtaining credit;

(E) orders to turn over property of the estate;

(F) proceedings to determine, avoid, or recover preferences;

(G) motions to terminate, annul, or modify the automatic stay;

(H) proceedings to determine, avoid, or recover fraudulent conveyances;

(I) determinations as to the dischargeability of particular debts;

(J) objections to discharges;

(K) determinations of the validity, extent, or priority of liens;

(L) confirmations of plans;

(M) orders approving the use or lease of property, including the use of cash collateral;

(N) orders approving the sale of property other than property resulting from claims brought by the estate against persons who have not filed claims against the estate; and

(O) other proceedings affecting the liquidation of the assets of the estate or the adjustment of the debtor-creditor or the equity security holder relationship, except personal injury tort or wrongful death claims.

(3) The bankruptcy judge shall determine, on the judge's own motion or on timely motion of a party, whether a proceeding is a core proceeding under this subsection or is a proceeding that is otherwise related to a case under title 11. A determination that a proceeding is not a core proceeding shall not be made solely on the basis that its resolution may be affected by State law.

(4) Non-core proceedings under section 157(b)(2)(B) of title 28, United States Code, shall not be subject to the mandatory abstention provisions of section 1334(c)(2).

(5) The district court shall order that personal injury tort and wrongful death claims shall be tried in the district court in which the bankruptcy case is pending, or in the district court in the district in which the claim arose, as determined by the district court in which the bankruptcy case is pending.

(c)(1) A bankruptcy judge may hear a proceeding that is not a core proceeding but that is otherwise related to a case under title 11. In such proceeding, the bankruptcy judge shall submit proposed findings of fact and conclusions of law to the district court, and any final order or judgment shall be entered by the district judge after considering the bankruptcy judge's proposed findings and conclusions and after reviewing de novo those matters to which any party has timely and specifically objected.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the district court, with the consent of all the parties to the proceeding, may refer a proceeding related to a case under title 11 to a bankruptcy judge to hear and determine and to enter appropriate orders and judgments, subject to review under section 158 of this title.

(d) The district court may withdraw, in whole or in part, any case or proceeding referred under this section, on its own motion or on timely motion of any party, for cause shown. The district court shall, on timely motion of a party, so withdraw a proceeding if the court determines that resolution of the proceeding requires consideration of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce.

§ 158. Appeals

(a) The district courts of the United States shall have jurisdiction to hear appeals from final judgments, orders, and decrees, and, with leave of the court, from interlocutory orders and decrees, of bankruptcy judges entered in cases and proceedings referred to the bankruptcy judges under section 157 of this title. An appeal under this subsection shall be taken only to the district court for the judicial district in which the bankruptcy judge is serving.

(b)(1) The judicial council of a circuit may establish a bankruptcy appellate panel, comprised of bankruptcy judges from districts within the circuit, to hear and determine, upon the consent of all the parties, appeals under subsection (a) of this section.

(2) If authorized by the Judicial Conference of the United States, the judicial councils of 2 or more circuits may establish a joint bankruptcy appellate panel comprised of bankruptcy judges from the districts within the circuits for which such panel is established, to hear and determine, upon the consent of all the parties, appeals under subsection (a) of this section.

(3) No appeal may be referred to a panel under this subsection unless the district judges for the district, by majority vote, authorize such referral of appeals originating within the district.

(4) A panel established under this section shall consist of three bankruptcy judges, provided a bankruptcy judge may not hear an appeal originating within a district for which the judge is appointed or designated under section 152 of this title.

(c) An appeal under subsections (a) and (b) of this section shall be taken in the same manner as appeals in civil proceedings generally are taken to the courts of appeals from the district courts and in the time provided by Rule 8002 of the Bankruptcy Rules.

(d) The courts of appeals shall have jurisdiction of appeals from all final decisions, judgments, orders, and decrees entered under subsections (a) and (b) of this section.

§ 1334. Bankruptcy cases and proceedings

(a) Except as provided in subsection (b) of this section, the district courts shall have original and exclusive jurisdiction of all cases under title 11.

(b) Notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.

(c)(1) Nothing in this section prevents a district court in the interest of justice, or in the interest of comity with State courts or respect for State law, from abstaining from hearing a particular proceeding arising under title 11 or arising in or related to a case under title 11.

(2) Upon timely motion of a party in a proceeding based upon a State law claim or State law cause of action, related to a case under title 11 but not arising under title 11 or arising in a case under title 11, with respect to which an action could not have been commenced in a court of the United States absent jurisdiction under this section, the district court shall abstain from hearing such proceeding if an action is commenced, and can be timely adjudicated, in a State forum of appropriate jurisdiction. Any decision to abstain or not to abstain made under this subsection is not reviewable by appeal or otherwise by the court of appeals under section 158(d), 1291, or 1292 of this title or by the Supreme Court of the United States under section 1254 of this title. This subsection shall not be construed to limit the applicability of the stay provided for by section 362 of title 11, United States Code, as such section applies to an action affecting the property of the estate in bankruptcy.

(d) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction of all of the property, wherever located, of the debtor as of the commencement of such case, and of property of the estate.

§ 1408. Venue of cases under title 11

Except as provided in section 1410 of this title, a case under title 11 may be commenced in the district court for the district—

(1) in which the domicile, residence, principal place of business in the United States, or principal assets in the United States, of the person or entity that is the subject of such case have been located for the one hundred and eighty days immediately preceding such commencement, or for a longer portion of such one-hundred-and-eighty-day period than the domicile, residence, or principal place of business, in the United States, or principal assets in the United States, of such person were located in any other district; or

(2) in which there is pending a case under title 11 concerning such person's affiliate, general partner, or partnership.

§ 1409. Venue of proceedings arising under title 11 or arising in or related to cases under title 11

(a) Except as otherwise provided in subsections (b) and (d), a proceeding arising under title 11 or arising in or related to a case under title 11 may be commenced in the district court in which such case is pending.

(b) Except as provided in subsection (d) of this section, a trustee in a case under title 11 may commence a proceeding arising in or related to such case to recover a money judgment of or property worth less than $1,000 or a consumer debt of less than $5,000 only in the district court for the district in which the defendant resides.

(c) Except as provided in subsection (b) of this section, a trustee in a case under title 11 may commence a proceeding arising in or related to such case as statutory successor to the debtor or creditors under section 541 or 544(b) of title 11 in the district court for the district where the State or Federal court sits in which, under applicable nonbankruptcy venue provisions, the debtor or creditors, as the case may be, may have commenced an action on which such proceeding is based if the case under title 11 had not been commenced.

(d) A trustee may commence a proceeding arising under title 11 or arising in or related to a case under title 11 based on a claim arising after the commencement of such case from the operation of the business of the debtor only in the district court for the district where a State or Federal court sits in which, under applicable nonbankruptcy venue provisions, an action on such claim may have been brought.

(e) A proceeding arising under title 11 or arising in or related to a case under title 11, based on a claim arising after the commencement of such case from the operation of the business of the debtor, may be commenced against the representative of the estate in such case in the district court for the district where the State or Federal court sits in which the party commencing such proceeding may, under applicable nonbankruptcy venue provisions, have brought an action on such claim, or in the district court in which such case is pending.

§ 1410. Venue of cases ancillary to foreign proceedings

(a) A case under section 304 of title 11 to enjoin the commencement or continuation of an action or proceeding in a State or Federal court, or the enforcement of a judgment, may be commenced only in the district court for the district where the State or Federal court sits in which is pending the action or proceeding against which the injunction is sought.

(b) A case under section 304 of title 11 to enjoin the enforcement of a lien against a property, or to require the turnover of property of an estate, may be commenced only in the district court for the district in which such property is found.

(c) A case under section 304 of title 11, other than a case specified in subsection (a) or (b) of this section, may be commenced only in the district court for the district in which is located the principal place of business in the United States, or the principal assets in the United States, of the estate that is the subject of such case.

§ 1411. Jury trials

(a) Except as provided in subsection (b) of this section, this chapter and title 11 do not affect any right to trial by jury that an individual has under applicable nonbankruptcy law with regard to a personal injury or wrongful death tort claim.

(b) The district court may order the issues arising under section 303 of title 11 to be tried without a jury.

§ 1412. Change of venue

A district court may transfer a case or proceeding under title 11 to a district court for another district, in the interest of justice or for the convenience of the parties.

§ 1452. Removal of claims related to bankruptcy cases

(a) A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.

(b) The court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground. An order entered under this subsection remanding a claim or cause of action, or a decision to not remand, is not reviewable by appeal or otherwise by the court of appeals under section 158(d), 1291, or 1292 of this title or by the Supreme Court of the United States under section 1254 of this title.

REGULATIONS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES FOR THE SELECTION OF UNITED STATES BANKRUPTCY JUDGES

United States bankruptcy judges exercise highly important judicial powers and responsibilities as officers of the United States district courts. It is therefore imperative that only highly qualified individuals be selected as bankruptcy judges. To that end, and in accordance with section 120(b) of the Bankruptcy Amendments and Federal Judgeship Act of 1984, the following regulations for the selection of nominees for bankruptcy judgeships are promulgated by the Judicial Conference of the United States.

CHAPTER 1. QUALIFICATIONS OF UNITED STATES BANKRUPTCY JUDGES

Sec. 1.01. Minimum Qualifications.

To be qualified for appointment as United States bankruptcy judges, nominees must meet the following standards:

(a) They must be members in good standing of the bar of the highest court of at least one state, the District of Columbia, or the Commonwealth of Puerto Rico, and members in good standing of every other bar of which they are members.

(b) They must: (1) be competent to perform the duties of the office; (2) possess, and have a reputation for, integrity and good character; (3) possess, and have demonstrated, a commitment to equal justice under the law; (4) be of sound mental and physical health; (5) possess, and have demonstrated, outstanding legal ability and competence; and (6) indicate by their demeanor, character and personality that they would exhibit judicial temperament if appointed.

(c) At the time of the initial appointment they must not be related by blood or marriage to a judge of the appointing Court of Appeals or judicial council of that circuit, or to a judge of the district court to be served, within the degrees specified in 28 U.S.C. § 458, at the time of the initial appointment.

Sec. 1.02. Additional Qualifications.

(a) Unless the council determines that special conditions exist, they must have been engaged in the active practice of law for a period of at least five years. The judicial

council may consider as substitute experience for the active practice of law the following, including any combination thereof:

(1) Judge of a state court of record or other state judicial officer.

(2) United States magistrate, referee in bankruptcy, bankruptcy judge, or other federal judicial officer.

(3) Attorney for federal or state agencies.

(4) Law clerk to any judge or judicial officer (limited to two years).

(5) Other legal experience which is suitable as a substitute in the opinion of the majority of the judicial council.

(b) A judicial council may establish additional qualification standards appropriate for a particular position, taking into account the specific responsibilities anticipated for that position.

CHAPTER 2. PUBLIC NOTICE

Sec. 2.01. Publication.

Prior to the selection of nominees, a public notice shall be published in a general local newspaper or similar publication and in a bar journal, newsletter, or local legal periodical, if available.

Sec. 2.02. Contents of Notice.

The public notice shall describe the nature of the position and the procedures for submission of applications, including the name and address of the person to whom applications should be submitted. The notice should specify that applications are to be submitted only by the potential nominee personally, indicating the person's willingness to serve if selected.

Sec. 2.03. Filing of Notice.

The public notice shall be filed and posted in the offices of the clerk of the Court of Appeals, the clerk of the district court, and the bankruptcy clerk, a copy shall be provided to the Director of the Administrative Office at the time an appointment is made.

CHAPTER 3. MERIT SELECTION PANEL

Sec. 3.01. Establishment of Panel.

Before nominations are made, the council may appoint a merit selection panel which shall recommend for nomination individuals whose character, experience, ability and commitment to equal justice under the law fully qualify them to serve as United States

bankruptcy judges. The council may authorize the chief judge of the circuit to appoint panels under this section.

Sec. 3.02. Membership.

(a) The panel shall be composed of a chairman and other members appointed by majority vote of the judicial council. The panel shall have no fewer than three members, including the chairman.

(b) Members of the panel shall receive no compensation for their service, but may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law.

(c) Each member of the panel shall be a resident of the circuit within which the appointment is to be made.

(d) No person shall be considered as a nominee while serving as a member of the panel for a period of one year after completion of such service.

Sec. 3.03. Duties.

(a) The chairman shall have such duties as the judicial council may assign.

(b) All information made available to the members of the panel in the performance of their duties, including the names of potential nominees and the identities of individuals recommended by the panel, shall be kept in strict confidence except as provided in section 3.04 of these regulations.

(c) Decisions of the panel shall be by majority vote of all the members.

(d) The panel shall examine the applications of all potential nominees and may, in its discretion, personally interview potential nominees. The panel shall make an effort to identify and give due consideration to all qualified candidates, without regard to race, color, sex, religion or national origin.

(e) The panel shall determine those individuals among the potential nominees who meet all of the standards set forth by these regulations for appointment as United States bankruptcy judges, and shall designate those individuals whom the panel considers best qualified.

(f) The panel shall submit a report to the council as provided in the following section.

Sec. 3.04. Panel Report.

The panel shall within ninety days after its creation report to the judicial council the results of its activities, unless otherwise directed. The report of the panel shall specify five to

ten persons the panel has determined as best qualified and shall have attached to it all written information received by or prepared by the panel concerning the recommended nominees. The council may accept a list containing fewer than five names for good cause shown by the panel in its report.

Sec. 3.05. Alternative to Panel.

If the council does not appoint a panel under section 3.01, the council or a subcommittee of the members of the council may perform the duties set forth in section 3.03.

CHAPTER 4. SELECTION OF NOMINEES AND APPOINTMENT

Sec. 4.01. Selection of Nominees.

The judicial council shall submit a list of at least three nominees to the Court of Appeals unless otherwise directed by the court. The council shall select nominees from the list provided by the panel. However, a judicial council may, by majority vote, reject the first list submitted by the panel. The judicial council may require that the finalists selected complete a preliminary disclosure statement prior to the list being forwarded to the court of appeals. The disclosure statement shall be filed with the judicial council in such manner as it may direct and it shall be considered confidential. If such a list is rejected, the panel shall submit a second list from which the judicial council shall then select its nominees. If a panel is not appointed under section 3.01, the judicial council shall select its nominees from the applicants for the position.

Sec. 4.02. Statutory Preferences.

Sections 120(a)(2) and 120(b) of the Bankruptcy Amendments and Federal Judgeship Act of 1984 includes the following statutory preferences:

§ 120(a)(2): It is the sense of the Congress that the courts of appeals should consider for appointment under section 152 of title 28, United States Code, to the first vacancy which arises after the date of the enactment of this Act in the office of each bankruptcy judge, the bankruptcy judge who holds such office immediately before such vacancy arises, if such bankruptcy judge requests to be considered for such appointment.

§ 120(b): . . . In the case of the first vacancy which arises after the date of the enactment of this Act in the office of each bankruptcy judge, such potential nominees shall include the bankruptcy judge who holds such office immediately before such vacancy arises, if such bankruptcy judge requests to be considered for such appointment and the judicial council determines that such judge is qualified under subsection (c) of this section to continue to serve. Such potential nominees shall receive consideration equal to that given all other potential nominees for such positions.

Sec. 4.03. F.B.I. and I.R.S. Reports.

The name of the person selected by the Court of Appeals for appointment shall be submitted to the Director of the Administrative Office, who shall request background reports by the Federal Bureau of Investigation and the Internal Revenue Service. However, if the nominee has been the subject of such reports prior to appointment to the present position, the requirement for further background reports may be waived on request by the Court of Appeals.

Sec. 4.04. Filing of Preliminary Disclosure Statement by Nominee

A nominee for a bankruptcy judgeship may be required by the court of appeals to complete a preliminary disclosure statement after being selected for appointment by the court of appeals and prior to preparation of the background reports by the Federal Bureau of Investigation and the Internal Revenue Service. The disclosure statement shall be filed with the court of appeals in such manner as it may direct and it shall be considered confidential.

Sec. 4.05. Order of Appointment.

An order of appointment may be issued by the Court of Appeals following receipt by the court of the information obtained from the Federal Bureau of Investigation and the Internal Revenue Service. If in the judgment of the court the Internal Revenue Service report has not been completed in a timely manner, it may waive the report provided that it has taken steps to insure itself that the nominee has filed returns as required.

Sec. 4.06. Oath of Office.

The appointee shall, prior to entering on duty, take the oath or affirmation prescribed by section 453 of title 28, United States Code.

Sec. 4.07. Record of Appointment.

The appointment of the bankruptcy judge shall be entered of record in the Court of Appeals and the pertinent district court or courts, and notice of such appointment shall be given at once by the clerk of the Court of Appeals to the Director.

CHAPTER 5. PENDING APPOINTMENTS

Sec. 5.01. Determination by Judicial Council.

Procedures instituted for appointments to bankruptcy judgeships prior to the date of enactment of the Bankruptcy Amendments and Federal Judgeship Act of 1984 need not be repeated if, in each individual case, the judicial council determines that: (a) sufficient public notice has been given of the position to advise potential applicants of the nature of

the position; and (b) an effort has been made to identify qualified candidates without regard to race, color, sex, religion, or national origin. The judicial council, in accordance with these regulations, may then select nominees from among all the candidates for the position and submit a list of nominees to the Court of Appeals.

APPENDIX D

SAMPLE FULL PUBLIC NOTICE FOR APPOINTMENT OF A BANKRUPTCY JUDGE

The United States Court of Appeals for the _____ Circuit seeks applications from all highly qualified candidates for a fourteen year appointment as United States Bankruptcy Judge for the _____ District of _____ at _____. The basic jurisdiction of a Bankruptcy Judge is specified in Title 28, United States Code and explained in Title 11, United States Code, as well as in 98 Stat. 344, Pub. L. 98-353, Title I, § 120.

To be qualified for appointment an applicant must:

(a) Be a member in good standing of the bar of the highest court of at least one state, or the District of Columbia, and a member in good standing of every other bar of which the applicant is a member.

(b)(1) be competent to perform the duties of the office; (2) possess, and have a reputation for, integrity and good character; (3) possess, and have demonstrated, a commitment to equal justice under the law; (4) be of sound mental and physical health; (5) possess, and have demonstrated, outstanding legal ability and competence; and (6) indicate by demeanor, character and personality that the applicant would exhibit judicial temperament if appointed.

(c) Not be related by blood or marriage to (1) a judge of the United States Court of Appeals for the _____ Circuit; (2) a member of the Judicial Council of the _____ Circuit; or (3) a judge of the district court to be served, within the degrees specified in Section 458 of title 28, United States Code, at the time of the initial appointment.

(d) Have been engaged in the active practice of law for a period of at least five years. The Judicial Conference may consider other suitable legal experience as a substitute for the active practice of law.

The selection process will be confidential and competitive. The current annual salary is _____. Persons shall be considered without regard to race, color, sex, religion, or national origin.

If you are interested in applying, please notify _____ in writing, and the qualification standards and an application form will be forwarded to you. Applications must be submitted only by potential nominees personally and MUST BE RECEIVED BY _____.

SAMPLE ABBREVIATED PUBLIC NOTICE FOR APPOINTMENT OF A BANKRUPTCY JUDGE

The United States Court of Appeals for the _____ Circuit seeks applications from all highly qualified applicants for a 14-year appointment as United States Bankruptcy Judge for the _____ District of _____ at_____.

The salary of the position is _____ per annum.

A full public notice for the Bankruptcy Judge position is posted in the Office of the Circuit Executive at _____.

Interested persons may contact _____ for further information and application forms.

Applications must be submitted only by potential nominees personally and must be received no later than _____.

_____

APPENDIX F

SAMPLE APPLICATION FORM
UNITED STATES BANKRUPTCY JUDGE*

General

1. Full Name: _____

2. All other names by which you have been known: _____
   _____

3. Present Occupation: _____ Title: _____

4. Office Address: _____
   _____
   _____
   City _____ State _____
   Zip _____ Telephone _____

5. Residential Address: _____
   _____
   _____
   City _____ State _____
   Zip _____ Telephone _____

6. Place of Birth: _____
   Date of Birth: _____

7. Length of Residence in State: _____

8. If you are a naturalized citizen, please state the date and place of naturalization:

_____

9. Spouse's Name: _____

10. Spouse's Occupation: _____

If spouse is an attorney, will he/she practice before the bankruptcy court if you are appointed bankruptcy judge? Yes_____ No_____

11. Children:

Names	Ages
_____	_____
_____	_____
_____	_____

12. Colleges and universities attended, dates, degrees, and class standing (if known): _____

_____

_____

13. Military Service:

Branch	Dates
_____	_____
_____	_____

Rank or Rate at Discharge	Type of Discharge
_____	_____

If still a reserve or national guard member, please give service, branch, unit, and present rank:

_____

_____

_____

14. Are you related by blood or marriage to any judges or member of the Judicial Council of the United States Court of Appeals for the _____ Circuit, or a Judge of the District Court for the _____ District of _____? If so, give their names and the relationship.

Names	Relationship
_____	_____
_____	_____

Health

15. What is the present state of your health? _____

16. Do you have any disability, illness or condition that would prevent you from performing the essential functions of the position of bankruptcy judge? If so, please provide details on attached sheets. _____Yes _____No

Honors

17. Were you a member of the law review board? _____

_____

18. If you have published any legal books or articles, please list them, giving citations and dates:

_____

_____

_____

19. List any honors, prizes, or awards you have received:

_____

_____

_____

_____

20. Continuing legal education courses completed within last 5 years:

_____

_____

_____

Professional Admissions

21. List all courts (including state bar admissions) and administrative bodies having special admission requirements in which you are presently admitted to practice, giving the dates of admission in each case:

Court or Administrative Body	Date of Admission

Law Practice

22. State the name, dates and addresses of all law firms with which you have been associated in practice, and of all governmental agencies or private business organizations in which you have been employed, periods you have practiced as a sole-practitioner, and other prior practice:

Position	Firm Address	Dates

23. Describe the general nature of your current practice including any legal specialties which you possess and the character of your typical clients; additionally if your practice is substantially different now than previously, please give details of prior practice:

24. a) Do you regularly appear in court? _____

b) What percentage of your appearances in the last five years were in:

1. Bankruptcy Courts ..... _____%
2. Federal, District and Appeals Courts ..... _____%
3. State or Local Courts of Record ..... _____%

4. Administrative Bodies ..... _____%

5. Other ..... _____%

25. During the past five years, what percentage of your practice has been trial practice?
_____ %

How frequently have you appeared in court? _____ times per month.

How frequently have you appeared at administrative hearings? _____times per month.

What percentage of your practice involving litigation has been:

Bankruptcy ..... _____%

Civil ..... _____%

Criminal ..... _____%

_____ ..... _____%

_____ ..... _____%

_____ ..... _____%

State the number of cases you have tried to conclusion in courts of record during each of the past five years, including whether you were sole, associate, or chief counsel. Give citations of any reported cases.

_____

_____

_____

26. Have you served as a trustee or other court appointed officer in bankruptcy matters?
Yes_____ No_____

If yes, provide the approximate number of such cases and list the more important matters in which you served. _____ cases.

Matters Handled	Court
_____	_____
_____	_____
_____	_____
_____	_____

27. Summarize your courtroom experience for the past five years:

_____

_____

_____

_____

_____

_____

_____

28. State the names and addresses of adversary counsel against whom you have litigated your primary cases over the past (five) years:

_____

_____

_____

_____

_____

_____

Public Office

29. Have you ever run for, or held, public office? If so, give details.

_____

_____

_____

Prior Judicial Experience

30. a) Have you ever held judicial office or been a candidate for judicial office? If so, please state the courts involved and the dates of service, or dates of candidacy:

_____

_____

b) Prior quasi-judicial service:

Name of Agency _____;

Position held _____;

Hearing on what issues _____;

Number of cases adjudicated _____;

Dates of service _____.

Business Involvement

31. a) If you are now an officer, director or otherwise engaged in the management of any business enterprise, state the name of such enterprise, the nature of the business, the

nature of your duties, and whether you intend to resign such position immediately upon your appointment to judicial office.

b) Since being admitted to the Bar, have you ever engaged in any occupation, business or profession other than the practice of law? If so, please give the details, including dates.

c) State whether during the past five years you have received any fees or compensation of any kind, other than for legal services rendered, from any business enterprise, institution, organization or association of any kind. If so, identify the source of such compensation, the nature of the business enterprise, institution, organization or association involved, and the dates such compensation was paid.

Disciplinary Proceedings/Offenses

32. a) Have you ever been arrested, charged, or convicted for violation of any federal law, state law, county or municipal law, regulation or ordinance? If so, please give details. Do not include traffic violations for which a fine of $100 or less was imposed unless it also included a jail sentence.

b) Have you, to your knowledge, ever been under federal, state or local investigation for possible violation of a criminal statute? If so, give particulars.

33. a) Have you ever been sued by a client? If so, give particulars.

b) Have you or your professional liability insurance carrier ever settled a claim against you for professional malpractice? If so, please give particulars, including the amounts involved.

_____

_____

_____

34. Have you ever been charged in any civil or criminal proceeding with conduct alleged to involve moral turpitude, dishonesty and/or unethical conduct? If so, please give particulars, including the full style of the cause.

_____

_____

_____

35. Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by any court, administrative agency, bar association, or other professional group? If so, please give the particulars.

_____

_____

_____

Taxes

36. To the best of your knowledge, are you in compliance with the tax laws of the federal government and the state, county and community of which you are a resident?
_____Yes _____No

37. Have you filed appropriate tax returns as required by federal, state, local and other government authorities? Yes _____ No_____ If no, please explain.

_____

_____

38. Has a tax lien or other collection procedure ever been instituted against you by federal, state or local authorities? If so, give particulars.

_____

_____

Professional and Other Activities

39. a) List all bar associations and legal professional societies of which you are a member and give the titles and dates of any office you have held in such groups, and committees to which you belonged.

_____

_____

b) List all organizations and clubs, other than bar associations and professional societies identified in response to Question No. 39a, of which you have been a member during the past ten years, including the titles and dates of any offices you have held in each such organization.

_____

_____

_____

40. Describe any civic, philanthropic, community, social or public service activities during the past five years, including any posts or offices held and honors or awards received._____

_____

_____

Supplemental Information

41. Do any clubs or private associations to which you belong have a discriminiation clause or have a history of barring membership to women or minorities? _____Yes _____No

42. State any achievements or actions you have accomplished, demonstrating your commitment to equal justice under the law.

_____

_____

_____

43. State any additional education or other experiences you believe would assist you in holding judicial office.

_____

_____

_____

44. State any other pertinent information reflecting positively or adversely on you which you believe should be disclosed to the circuit court and the selection panel in connection with your possible nomination as United States Bankruptcy Judge.

_____

_____

_____

Personal and Judicial References

45. List five individuals as references who are familiar with your abilities and personal character.

Name	Address	Telephone

46. (a) Give the names and current phone numbers of at least five, but no more than ten persons (of whom not fewer than four must be lawyers not associated with you in the practice of law or in business) to whom we may refer as to your character and ability, and state how long each has known you. Your references must have had adequate opportunities for observing your professional and general conduct and ability. Describe the status of nonlaw references.

Name	Telephone	Status and Period of Acquaintance

(b) Give the names and current phone numbers of at least three persons who have worked for you and with you in a subordinate position.

Name	Telephone	Work Relationship

(c) Give the names and current phone numbers of not more than five judges (of whom at least three must be active) with whom you are not and have not been associated in the practice of law or in business, before whom you have appeared recently in matters which would afford them an opportunity to observe your professional conduct and ability. If yours is a non-litigation practice, list such judges, if any, who have had an opportunity to observe you in bar association or other activities. Indicate those before whom you have appeared in court or other judicial bodies by placing a (c) following his or her name.

Name of Judge	Court	Date and Nature of Most Recent Matter	Telephone

Confidentiality Statement

This form will be kept confidential and will be examined only by members of the Merit Selection Panel, the Circuit Executive, judges of the judicial council, and the judges of the circuit court. The individuals whom you have listed as references above, as well as your employer or co-workers, may be contacted by the panel. If this presents a problem, you should notify the circuit executive so that special arrangements can be made. Sometimes the arrangement is that there will be no contact with an employer or co-workers unless you are a potential finalist for the position.

I declare under penalty of perjury that the foregoing is true and correct. Executed on:

_____ _____

Date Signature of Candidate

*This is a recommended list of questions which may be asked of applicants. The court should select those questions which it believes are appropriate for inclusion in its application form.

APPENDIX G

UNITED STATES BANKRUPTCY JUDGE APPLICANT QUALIFICATION FACTORS CHECKLIST

Applicant Name_____

Qualification Factor	Importance	Rating	Comments
Education			_____
Health			_____
Honors			_____
Professional Experience			
Bankruptcy			_____
Other Legal			_____
Trials			_____
Prior Judicial Service			_____
Non-Legal			_____
Professional and Other Activities			_____
References			_____
Other Factors			_____

Reviewing Official _____

APPENDIX H

PRELIMINARY DISCLOSURE STATEMENT

UNITED STATES BANKRUPTCY JUDGES

The information you supply in response to this form may be utilized by the Federal Bureau of Investigation in making an investigation of your background, as required by policies established by the Judicial Conference of the United States. This form and the background investigation are part of the court of appeals' consideration of your qualifications and suitability for appointment as a United States Bankruptcy Judge. (See Privacy Act Notice furnished as a supplement to SF 86)

If there is insufficient space beside a question to answer fully, please use a separate page.

A. PERSONAL DATA

1. Name:

2. Telephone number: (office)

   (home)

3. Marital status: (If married, please identify your spouse's employers for the past five years.)

4. Have your federal or state tax returns been the subject of an audit or investigation or inquiry at any time? If so, please explain.

5. Are you currently under federal, state, or local investigation for a possible violation of a criminal statute? If so, please give full details.

6. List all memberships and offices held in professional, fraternal, scholarly, and civic organizations.

7. Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, professional association disciplinary committee, or other professional group? If so, please give full details.

8. Have you ever been involved in civil litigation, or administrative or legislative proceedings of any kind, either as plaintiff, defendant, respondent, witness, or party in interest, which may be appropriate for consideration by the court of appeals which is considering your appointment as a bankruptcy judge? If so, please give full details.

9. What is the condition of your health?

10. Have you had a physical examination recently?

11. Without details, is there or has there been anything in your personal life which you feel, if known, may be of embarrassment to the bankruptcy court in the event that you are appointed as a bankruptcy judge? Is there anything in your spouse's personal life which, if known, may be of embarrassment to the bankruptcy court in the event that you are appointed?

B. FINANCIAL DATA

Please note that Public Law 95-521, the Ethics in Government Act of 1978, as amended, and regulations of the Judicial Conference require all new bankruptcy judges to provide reports of specified financial interests as to themselves, their spouses, and any other mem-

bers of their immediate household within 30 days of their entrance on duty. Items B.1. and B.2. below are intended to elicit financial information similar to—although, in some cases, broader in scope—the information which all new bankruptcy judges are required to provide. The remaining items on this form seek a further elaboration of your financial status. As to all matters, please provide the requested information as to yourself, your spouse, your minor children, and any other members of your household.

1. List the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and education or other institutions

   (a) with which you are now connected as an employee, officer, owner, director, trustee, partner, advisor, attorney, or consultant. (Attorneys and consultants need list only their major clients, but should include all of those whom you represent on a regular basis or which might give rise to an appearance of bias on your part in connection with your proposed appointment).

   (b) in which you have any continuing financial interests, through a pension or retirement plan, stock bonus, shared income, severance pay agreement, or otherwise as a result of any current or prior employment or business or professional association. As to each financial arrangement, provide all details necessary for a thorough understanding of the way in which the arrangement operates, including information concerning any renewal right you may have if the arrangement is allowed to lapse and whether lump sum or severance benefits are available in lieu of continuation of the interest.

   (c) in which you have any financial interest through the ownership of stocks, stock options, bonds, partnership interests, or other securities. Any interests held indirectly through trusts or other arrangements should be included. (Please provide a copy of any trust or other agreement).

2. Provide a complete, current financial net worth statement that itemizes in detail

   (a) the identity and value of all assets held, directly or indirectly. This itemization should include, but not be limited to, bank accounts, real estate, securities, trusts, investments, and other financial holdings.

   (b) the identity and amount of each liability owed, directly or indirectly, which is in excess of $1,000. This itemization should include, but not be limited to, debts, mortgages, loans, and other financial obligations for which you, your spouse or your dependents have a direct liability or which may be guaranteed by you, your spouse or your dependents. In identifying each liability, indicate the nature of the liability and the entity or person to which it is owed.

3. List sources and amounts of all items of value received during this calendar year and the preceding one (including, but not limited to, salaries, wages, fees, dividends, capital gains or losses, interests, rents, royalties, patents, honoraria, and other gifts other than those of nominal value).

4. Please provide copies of your federal income tax returns for the preceding three-year period.

C. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations, or business organizations, if you are selected as a bankruptcy judge?

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

D. POTENTIAL CONFLICTS OF INTERESTS

1. Describe all financial arrangements, stock options, deferred compensation agreements, future benefits, and other continuing relationships with business associates, clients, or customers.

2. Describe any business relationship, dealing, or financial transaction which you have had during the last five years, whether for yourself, on behalf or a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

3. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

For additional copies, please contact

Bankruptcy Judges Division

Administrative Office of the United States Courts
Washington, D.C. 20544

(202) 273-1915

BEST COPY AVAILABLE

END

DATE FILMED

06/15/95